

EXHIBIT 1

DATE 4.26.07

HB 678

Amendments to House Bill No. 678  
Reference Copy

Requested by Senator Kim Gillan

For the House Free Conference Committee

Prepared by Greg Petesch  
April 26, 2007 (9:36am)

1. Title, line 5.

**Strike:** "INCREASING DIRECT STATE AID TO SCHOOLS"

2. Title, line 6.

**Strike:** "; REVISING THE DEFINITION OF "BASE AID";"

3. Title, line 7.

**Strike:** "REVISING"

**Insert:** "INCREASING"

4. Title, lines 10 and 11.

**Following:** "~~ELIMINATING~~" on line 10

**Strike:** remainder of line 10 through "GRANTS;" on line 11

**Insert:** "PROVIDING BASIC ENTITLEMENT UNIT PAYMENTS FROM A DEDICATED REVENUE SOURCE; PROVIDING A REFUND FOR A PORTION OF 2006 MONTANA PROPERTY TAXES PAID BY A TAXPAYER OR TAXPAYERS ON THE RESIDENCE THAT THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006 AND A REFUND OF CERTAIN 2005 AND 2004 MONTANA PROPERTY TAXES PAID ON THE PRINCIPAL RESIDENCE; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED;"

**Strike:** "SECTIONS"

**Insert:** "SECTION"

**Strike:** "20-9-141, 20-9-306,"

5. Title, line 12.

**Strike:** "20-9-367, 20-9-368,"

6. Title, line 13.

**Strike:** "AND 20-9-630,"

7. Title, line 14.

**Following:** the first "DATE"

**Insert:** ", "

**Strike:** "AND AN"

**Following:** "APPLICABILITY"

**Strike:** "DATE"

**Insert:** "DATES, AND A TERMINATION DATE"

8. Page 1, line 17 through page 34, line 12.

**Strike:** everything after the enacting clause

**Insert:** "Section 1. Section 20-9-366, MCA, is amended to read:

"20-9-366. **Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district divided by the sum of the district's current year BASE budget amount less direct state aid and the state special education allowable cost payment.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by ~~175%~~ 176% and divided by the total sum of either the state elementary school districts' or the high school districts' current year BASE budget amounts less total direct state aid.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts."

{ Internal References to 20-9-366:

20-3-106*	20-3-106*	20-6-702	20-9-306*
20-9-308*	20-9-308*	20-9-346*	20-9-346*
20-9-351*	20-9-366*	20-9-369*	20-9-406* }

**Insert:** "NEW SECTION. Section 2. Definitions. As used in [sections 2 through 4], the following definitions apply:

(1) "Montana property taxes" means the ad valorem property taxes imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed in the specified calendar year.

(2) "Owned" includes purchasing under a contract for deed and being the grantor or grantors under a trust indenture."

**Insert:** "NEW SECTION. Section 3. Property tax refund -- manner of claiming -- limitations. (1) (a) A refund of up to \$400 of 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006 may be claimed as provided in subsection (2), subject to subsections (3) and (4).

(b) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006 were more than \$25 and less than \$400, a refund of the 2005 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2005, may be claimed as provided in subsection (2). The property tax refund is subject to the limitations provided in subsection (3), in an amount that, together with the refund under subsection (1)(a), does not exceed \$400 unless the conditions of subsection (4) are met.

(c) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006, together with the 2005 Montana property taxes allowed as a refund under subsection (1)(b), were more than \$50 and less than \$400, a refund of the 2004 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2004, may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that, together with the refund under subsections (1)(a) and (1)(b), does not exceed \$400 unless the conditions of subsection (4) are met.

(2) (a) Subject to subsection (2)(b), the claim for refund, in the form that the department of revenue prescribes, must be executed by each taxpayer under penalty of false swearing and must include the information that the department requires.

(b) The personal representative of the estate of a deceased taxpayer may execute and file the claim for refund on behalf of a deceased taxpayer who qualifies for the refund.

(3) The claim for a refund is subject to the following limitations:

(a) The claim must be filed with the department of revenue on or before December 31, 2007, unless the department, for good cause shown, grants a reasonable extension of time for filing.

(b) Only one claim may be made with respect to any property.

(c) The claims by a taxpayer or taxpayers for 2006, 2005, and 2004 must be for the same property.

(4) (a) The department of administration shall certify to the budget director on August 1, 2007, the amount of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting, budgeting, and human resources system using generally accepted accounting principles in accordance with 17-1-102(2). Total general fund revenue for fiscal year 2007 is estimated to be \$1,762,000,000.

(b) If general fund revenue receipts in fiscal year 2007 exceed the estimate by more than:

(i) \$12,500,000 but less than \$25,000,000, then the property tax rebate is increased from \$400 to \$450;

(ii) \$25,000,000 but less than \$37,500,000, then the property tax rebate is increased from \$400 to \$500;

(iii) \$37,500,000 but less than \$50,000,000, then the property tax rebate is increased from \$400 to \$550; and

(iv) \$50,000,000 or more, then the property tax rebate is increased from \$400 to \$600."

**Insert: "NEW SECTION. Section 4. Property tax refund -- penalty for false or fraudulent claim.** A person who files a false or fraudulent claim for a property tax refund is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other tax owed the state, together with a penalty of 25% and interest on the amount of the refund at the rate of 12% a year, until paid."

**Insert: "COORDINATION SECTION. Section 5. Coordination instruction.** If House Bill No. 833 and [this act] are both passed and approved and if House Bill No. 833 includes provisions that tax real estate investment trust income, then a new section 5 is added to [this act] as follows:

**"NEW SECTION. Section 5. Basic entitlement unit payment -- definition -- funding.** (1) Beginning July 1, 2008, there is a basic entitlement unit payment to each school district based upon the calculated number of basic entitlement units within the

school district as provided in subsection (4).

(2) (a) For the purposes of this section, "basic entitlement unit" means, subject to subsection (2) (b):

- (i) 800 ANB for a high school district;
- (ii) 250 ANB for an elementary district; and
- (iii) 450 ANB for a junior high school or middle school.

(b) Each school district must receive a payment for at least one basic entitlement unit. A district with ANB greater than the applicable number described in subsection (2) (a) must receive an additional unit calculated by dividing the actual ANB by the appropriate number in subsection (2) (a) and rounding that number up to the nearest tenth.

(3) There is a basic entitlement unit payment account in the state special revenue fund. At the end of each fiscal year, the state treasurer shall transfer from the state general fund to the basic entitlement unit payment account the amount of revenue attributable to taxes received from the taxation of real estate investment trust income. The department of revenue shall certify to the state treasurer the amount of money to be transferred to the account. Interest and income earned on money in the account must be retained in the account.

(4) The basic entitlement unit payment is calculated by dividing the amount of money in the basic entitlement unit state special revenue account that does not exceed \$30 million by the number of basic entitlement units in the state. Any amount of money in the account in excess of \$30 million must be excluded from the calculation. The office of public instruction shall distribute the calculated total basic entitlement payment to each school district based upon the number of entitlement units in each school district according to the schedule provided in 20-9-344."

**Insert:** "COORDINATION SECTION. Section 6. Coordination instruction. If House Bill No. 833 and [this act] are both passed and approved and if House Bill No. 833 includes provisions that tax real estate investment trust income, then 20-9-306 is amended as follows:

**"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "BASE" means base amount for school equity.
- (2) "BASE aid" means:
  - (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;
  - (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;
  - (c) the total quality educator payment;

- (d) the total at-risk student payment;
  - (e) the total Indian education for all payment; and
  - (f) the total American Indian achievement gap payment.
- (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total basic entitlement unit payment, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.
- (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.
- (5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.
- (6) "Basic entitlement" means:
- (a) \$230,199 for each high school district;
  - (b) \$20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and
  - (c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:
    - (i) \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus
    - (ii) \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.
- (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.
- (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.
- (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, any total basic entitlement unit payment, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or  
(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment

resulting from multiplying \$2,000 times the number of full-time equivalent educators as provided in 20-9-327."

{ Internal References to 20-9-306:

20-5-323            20-5-323            20-7-102}""

**Insert:    "COORDINATION SECTION.    Section 7.    Coordination instruction.** If House Bill No. 833 and [this act] are both passed and approved and if House Bill No. 833 includes provisions that provide a renter's tax credit, then [section 12 of House Bill No. 833] is void."

**Insert:    "NEW SECTION.    Section 8.    {standard} Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 5]."

**Insert:    "NEW SECTION.    Section 9.    {standard} Effective date.** [This act] is effective July 1, 2007."

**Insert:    "NEW SECTION.    Section 10.    Applicability. (1)** [Section 1] applies to school district budgets for school fiscal years beginning on or after July 1, 2007.

(2) [Sections 5 and 6] apply to school fiscal years beginning on or after July 1, 2008."

**Insert:    "NEW SECTION.    Section 11.    {standard} Retroactive applicability.** [Sections 2 through 4] apply retroactively, within the meaning of 1-2-109, to 2006 Montana property taxes paid before [the effective date of sections 2 through 4]."

**Insert:    "NEW SECTION.    Section 12.    {standard} Termination.** [Sections 2 through 4] terminate June 30, 2008."

- END -